

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Lisa Kreinbrink,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2008cv3482
	)	
TASC, Inc., an Illinois non-for-profit	)	
Corporation, and Janelle Prutter,	)	
	)	
Defendants.	)	

**DEFENDANT’S MOTION TO DISMISS**

Defendant Janelle Prueter (“Ms. Prueter”) moves to dismiss the one claim made against her under 42 U.S.C. §1983 pursuant to Federal Rule of Civil Procedure 12(b)(6) because Plaintiff has no viable legal theory of relief under §1983. In further support of this motion, Ms. Prueter notes the following:

1. A fair reading of Plaintiff’s Complaint suggests she is alleging that Ms. Prueter caused TASC to retaliate against her because Plaintiff complained about sexual harassment in violation of §1983. There is no cause of action under §1983 under this scenario in the Seventh Circuit. *Boyd v. Illinois State Police*, 384 F.3d 888, 898 (7<sup>th</sup> Cir. 2004); *Easton v. College of Lake County*, 2008 U.S. Dist. LEXIS 52890, \* 11 (N.D. Ill. 2008)(dismissing a retaliation claim under §1983 under Civ.R.Pro. 12(b)(6).

2. Indeed, there is no cause of action under §1983 for retaliation under the Equal Protection Clause in the Eleventh, Second or Fifth Circuits either. *Boyd*, 384 F.3d at 898 (collecting cases).

3. In short, Plaintiff may bring a cause of action for retaliation under Title VII, which she has done, or she may bring a cause of action for retaliation under the First Amendment, which she has not done, but Plaintiff may not bring a cause of action for retaliation under §1983 and the Equal Protection Clause. *Weiss v. Indiana Univer. Board of Trustees*, 2005 U.S. Dist. LEXIS, \* 21 (N.D. South Bend, IN 2005)(granting an individual defendant summary judgment on a § 1983 claim brought under the equal protection clause based on the *Boyd* decision).

4. Further support for this motion is contained in Defendant's Memorandum of Law in Support of her Motion to Dismiss which is filed contemporaneously.

**PRAYER FOR RELIEF**

Based on the foregoing, Janelle Prueter requests that the Court grant the following relief from Plaintiff:

1. That this Court dismiss Count III against Janelle Prueter with prejudice, and
2. Such other relief as the Court may deem just and equitable under the circumstances.

Respectfully submitted,

Clingen Callow & McLean, LLC

By: /s/ Ross I. Molho

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